

**TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
January 5, 2010
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

Commissioner Lindell – Present
Commissioner Sheldon – Present
Commissioner Smith – Present
Commissioner Swain – Present
Commissioner Acton – Present
Commissioner Russo - Present
Chairman Backer – Present

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Approval of the Minutes from the November 3, 2009 Planning Commission Meeting

ACTION: A motion was made by Commissioner Lindell to approve the the minutes of the November 3, 2009 Planning Commission Meeting. The motion was seconded by Commissioner Russo.

VOTE: All in favor VOTE: 7-0 Motion Carried

NEW BUSINESS:

Review & Recommendation of an Official Town Map

Town Manager John Giles presented the proposed Official Town Map. He explained that there are two parcels which are depicted on the map that are not part of the Town of Elsmere and this new map would eliminate those parcels from the existing map.

ACTION: A motion was made by Commissioner Swain to recommend that the Mayor and Council adopt the amended map of the Town of Elsmere as proposed by the Town manager. The motion was seconded by Commissioner Russo.

VOTE: All in favor VOTE: 7-0 Motion Carried

The Planning Commission Reviewed Petition 09-14 Tax Parcel Number 1900800369 known as 514 Belmont Ave

Town Manager John Giles informed the Commission that during his review of the application earlier that day, it had come to his attention that the referenced property is in a flood plain and that although the Commission will still make their recommendation to the Board of Adjustments, the Board will then make a recommendation to the Mayor and Council.

Ms. Sherry Saslaw presented the application on behalf of Pegasus Communications. She explained that the area has been designated as an under served area for wireless broadband communications.

Chairman Backer asked if Pegasus Communications was a new company or an existing company.

Ms. Saslaw stated that the company has been around for a while and they typically do business out of Virginia and North Carolina. She also stated that they hope to put as many as 4 carriers on the Tower.

Chairman Backer asked who the carriers would be.

Ms. Saslaw stated that they only have two official carriers so far and they are Open Range and Clear Wire. The other two carriers have not been determined.

A lengthy discussion occurred regarding flood plain regulations and the Town's participation in the National Flood Insurance Program.

A lengthy discussion occurred regarding the commissions role in an applicants request and what they can control.

A discussion occurred regarding the maximum height of the tower and that this should include the 10' lightning rod that is atop the antennae making it a request for a 160' communications tower.

Commissioner Swain stated that he has been unable to visualize what the tower would look like from different areas of the town and the possibility of regulating that the tower should be disguised.

Mr. Giles stated that a proof of hardship has not been addressed or proven which is required to be issued a variance.

A lengthy discussion occurred regarding the questions that the commission is permitted to ask and what the applicant is required to provide to the commission members.

Ms. Saslaw stated that they are protected by the wireless communications act which states that communities must realize that communications towers are necessary and that you can't necessarily tell them they can't build in your community.

A lengthy discussion occurred regarding what the commission has authority to regulate such as the number of carriers they can put onto the tower if allowed.

A lengthy discussion occurred regarding the commissions inability to make an informed recommendation to the Board of Adjustments.

2nd District Councilman Steve Burg stated that he is concerned with the fact that the Town does not have any idea of what this tower will look like from various points in the Town and he feels that Pegasus Communications should provide some sort of idea or conceptual drawing to the Town to show this.

Mayor Deborah Norkavage 11 Olga Road stated that the tower is going to be visible from anywhere in the town. We have looked into the Main Street USA program and the Commission should look at how will this fit into that plan.

Denis Howard 209 Locust Ave stated that he has not received a notice regarding this tower and that he would like to have his neighbors and all be given a chance to voice their opinions regarding the tower.

ACTION: A motion was made by Commissioner Russo to forward this petition to the Board of Adjustments without a recommendation based on the following reasons:

1. The applicant did not provide a proof of hardship to allow such a variance to construct the proposed tower.
2. The applicant did not provide sufficient information to address the issue of allowing such a variance within a floodplain.
3. The carriers that would be located on the proposed tower did not provide any proof of hardship.
4. The Commission feels that the surrounding community should be given a chance to provide input.

The motion was seconded by Commissioner Sheldon.

VOTE: All in favor VOTE: 7-0 Motion Carried

The Planning Commission Reviewed Petition 09-14 Tax Parcel Number
1900800369 known as 514 Belmont Ave

The Commission read the letters submitted by the Town Engineer and Building Committee and determined that all concerns have been addressed.

ACTION: A motion was made by Commissioner Swain to recommend that the Mayor and Council approve Petition 09-04 requesting a subdivision of the property 209 Locust Ave with the condition that the applicant must comply with the requirements set out through the letter received from VandeMark & Lynch on dated December 21, 2009. The motion was seconded by Commissioner Sheldon.

VOTE: All in favor **VOTE:** 7-0 Motion Carried

OLD BUSINESS:

Review of the Comprehensive Plan

Mr. Giles stated that the University of Delaware was supposed to be ready to be forwarded to the Mayor and Council by the January Council Meeting however nothing has been received from the University. This item will be placed on the February Planning Commission Agenda

At this time a lengthy conversation occurred between the Commission and the Town Manager regarding the process to adopt the Comprehensive Plan.

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: A motion was made by Commissioner Swain to adjourn. The motion was seconded by Commissioner Russo.

VOTE: All in favor **VOTE:** 7-0 Motion Carried

At this time the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the January 5, 2010 Planning Commission Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

LEON BACKER, CHAIRMAN

CHARLES LINDELL, SECRETARY